IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP NO. 1945 of 2007

DATE OF DECISION: 08.02.2007.

Surinder Pal Singh ....Petitioner

Versus

The State of Punjab and others ..Respondents.

CORAM: HON'BLE MR.JUSTICE J.S. KHEHAR
HON'BLE MR. JUSTICE S.D. ANAND

PRESENT: Mr. R.K. Chopra, Advocate
for the petitioner.

J.S. Khehar, J. (oral)

The petitioner was granted current duty charge (also described as `look after charge') of the post of Assistant Research Officer by an order dated 5.8.2000, whilst the petitioner continued to substantively hold the post of Research Assistant Grade-A. It is the vehement contention of the learned counsel for the petitioner, that the petitioner has continued to discharge his duties against the post of Assistant Research Officer since the year 2002, without any blemish whatsoever. In this behalf, it is also the contention of the learned counsel for the petitioner, that no adverse annual confidential report was communicated to the petitioner during the period he discharged his duties against the higher post of Assistant Research Officer.

The respondents examined the claim of persons substantively

holding the post of Research Assistant Grade-A for promotion to the post of Assistant Research Officer, in terms of the provisions of the Punjab Irrigation Research, Class III, Service Rules, 1963, for which a Departmental Promotion Committee was constituted, which held its deliberations for the aforesaid purpose on 19.6.2006. In the aforesaid process, 20 Research Assistants Grade-A came to be promoted to the post of Assistant Research Officer. The claim of the petitioner, which was also subject matter of consideration, was, however, declined, inasmuch as, the order dated 30.1.2007 (Annexure P-10) was communicated to the petitioner, informing him that the Departmental Promotion Committee in its deliberations held on 19.6.2006 had not considered the petitioner suitable for promotion to the post of Assistant Research Officer on account of his confidential record.

The challenge to the impugned order dated 30.1.2007 at the hands of the petitioner is based on two submissions. Firstly, that the petitioner has uninterruptedly discharged the duties of the post of Assistant Research Officer since the year 2000 i.e. for a period of seven years, and as such, should be treated as superior to all others, who in the interregnum were holding and discharging the duties of the post of Research Assistant Grade-A. The second contention of the learned counsel for the petitioner is, that a number of persons junior to the petitioner, have been permitted to steal a march over the petitioner, in the deliberations conducted by the Departmental Promotion Committee.

We have considered the aforesaid contentions of the learned counsel for the petitioner, in the background of rule 6 of the 1963 Rules.

Rule 6 is being extracted hereunder for facility of reference:-

> **'6. Method of Appointment:**
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> Appointment to the Service shall be made by any one or more of the following methods:
>
> (i) by promotion from amongst of the Punjab P.W.D. (Irrigation Branch), Research Assistants, State Research Service, Class III, having not less than 10 years, continuous service as Research Assistant:
>
> Provided that the Government may relax this condition in suitable cases;
>
> (ii) by transfer of an officer already in the service of a State Government or of the Union having not less than 10 years continuous service; or
>
> (iii) by direct recruitment.
>
> Note:- Whenever any vacancy occurs in the Service, Government shall decide the method in which it shall be filled.
>
> Note 2. All promotions shall be made by selection based on merit and taking consideration seniority and seniority alone shall not give any right of appointment."

A perusal of rule 6 would reveal, that promotions to the post of Assistant Research Officer are to be made on the basis of selection by merit while taking into consideration seniority. The rule also envisages that seniority alone shall not vest any right in an employee for onward promotion to a

higher post. In view of the statutory rule, referred to above, it is immaterial whether the petitioner had rendered 7 years service as Assistant Research Officer at the time when the Departmental Promotion Committee examined the claim of the petitioner for promotion to the post of Assistant Research Officer. Likewise, the seniority of the petitioner over others, found suitable, is irrelevant. The only criterion envisaged under the statutory rules is selection, and in the process of selection, even seniors can be superseded by juniors, on the basis of their better merit.

In view of the above, it is not possible for us to accept the challenge raised by the petitioner against the order dated 30.1.2007.

No other contention was advanced by the learned counsel for the petitioner.

Dismissed.

(J.S. Khehar)
Judge

(S.D. Anand)
Judge

February 08, 2007.
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